

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MATTHEW WRIGHT,

Plaintiff,

v.

STATE OF WASHINGTON, *et al.*,

Defendants.

Case No. 2-18-cv-00927-RAJ

ORDER ADOPTING REPORT  
AND RECOMMENDATION

**I. INTRODUCTION**

This matter is before the Court on Plaintiff's objections to the Report and Recommendation ("Report") of Magistrate Judge Mary Alice Theiler. Dkt. # 84. Having considered Plaintiff's objections and the remaining record, the Court **ADOPTS** the Report.

**II. DISCUSSION**

The background of this matter is detailed in Judge Theiler's Report and will not be repeated here. Dkt. # 84 at 2-9. Plaintiff Matthew Wright objects. First, he argues that the Report incorrectly drew all reasonable inferences in favor of the moving parties (defendants), which is not the standard on summary judgment. Dkt. # 85 at 1. Second, he argues that the Report incorrectly recommended that Defendant Sarah Wright's

1 motion for summary judgment should be granted, even though it was filed late. *Id.* at 2.

2 The Court finds the Report well-reasoned and Mr. Wright's objections without  
3 merit. The Report properly applies the summary judgment standard to the facts of this  
4 case. And the magistrate did not err by accepting Ms. Wright's late motion for summary  
5 judgment. It is true that Ms. Wright filed her motion after the dispositive motion  
6 deadline, and it is true that she did not show good cause or obtain the court's consent  
7 beforehand. Dkt. ## 56, 82. But, given the circumstances here, the Court accepts her  
8 motion and adopts the Report.

9 District courts have broad discretion to consider late court filings, the timeliness of  
10 which is governed by local rules. *United States v. Heller*, 551 F.3d 1108, 1111 (9th Cir.  
11 2009). Under the local court rules of this district, parties must file dispositive motions  
12 "[n]ot later than the deadline [set forth in the scheduling order], *unless otherwise ordered*  
13 *by the court.*" Local Rules W.D. Wash. LCR 16(b) (emphasis added). Ultimately, "[t]he  
14 court may, by order in a specific case, modify or forego any of the procedures or  
15 deadlines set forth in this rule." *Id.* 16(m)(2). Here, there is good reason to deviate from  
16 the pretrial dispositive motion deadline. First, the magistrate found that this action, as a  
17 whole, is frivolous with no apparent basis in law or fact. Dkt. # 84 at 24. Second, Ms.  
18 Wright's seven-page motion largely incorporates the arguments made by the Department  
19 of Correction defendants, which was indeed timely filed. Dkt. # 82 at 1. Accepting  
20 Ms. Wright's motion allows the case to be tried on its merits and prevents a frivolous  
21 action from advancing based on a technicality. Thus, the Court accepts Ms. Wright's  
22 motion for summary judgment.

23 Mr. Wright's objection also fails because it was never previously raised. As far as  
24 the Court can tell, this is the first time that Mr. Wright has argued that Ms. Wright's  
25 submission was late. The magistrate issued the Report more than three months after  
26 Ms. Wright filed her late motion, yet Mr. Wright filed no response or motion in the  
27 interim. Now, on an objection to a report and recommendation and after the conclusion

1 of briefing on the merits, he argues that Ms. Wright's motion was improper. Dkt. #85 at  
2 2. The Court is not required to consider evidence or argument presented for the first time  
3 in a party's objection to a magistrate's recommendation, and it will not do so here.

4 *United States v. Howell*, 231 F.3d 615, 621-23 (9th Cir. 2000).

5 **III. CONCLUSION**

6 For the reasons stated above, and having considered Plaintiff's objections, the  
7 Court **ORDERS** as follows:

8 (1) The Report and Recommendation (Dkt. # 84) is **ADOPTED**;

9 (2) Defendants' motions for summary judgment (Dkt. ## 51, 69, 83) are

10 **GRANTED**;

11 (3) Plaintiff's amended complaint (Dkt. # 34) and this action are **DISMISSED** in  
12 their totality as frivolous; and

13 (4) The Clerk shall send a copy of this Order to the parties and to Judge Theiler.

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15 DATED this 11th day of June, 2020.

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18 The Honorable Richard A. Jones  
19 United States District Judge  
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